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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,926	12/05/2001	Carl P. Gusler	AUS920011005US1	9814
7590	02/05/2008	Kelly K. Kordzik 5400 Renaissance Tower 1201 Elm Street Dallas, TX 75270	EXAMINER SALCE, JASON P	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 02/05/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/004,926	GUSLER ET AL.
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 November 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-8, 13-18 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 3-8, 13-18 and 23-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

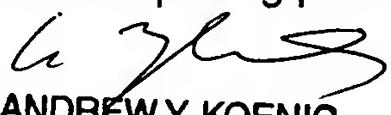
**DETAILED ACTION**

In view of the Appeal Brief filed on 10/13/2007, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



ANDREW Y. KOENIG  
PRIMARY PATENT EXAMINER  
ACTING SPE

After an Appeal Conference held with Andrew Koenig and Chris Grant on 1/29/08, claims 13-18 have been deemed non-statutory under U.S.C. 101. In addition the specification does not provide support for the original claim limitation "machine readable medium" in claims 13-18, therefore the specification has been object to for failing to provide antecedent basis in the specification for the limitation "machine readable medium". In addition claims 7, 17 and 28 should have been rejected under

U.S.C. 102 in view of Burnhouse. Paragraph 0053 clearly provides support for adding and deleting folders in the program guide display in Figures 9-10.

### ***Specification***

Claims 13-18 are objected to because of the following informalities: The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The examiner notes that the claim limitation machine readable medium is not support by the specification (see Paragraph 0043 of the specification). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Referring to claims 13-18, the preamble of the claims state, "A computer program product embodied in a machine readable medium for identifying television stations of interest in a user friendly environment comprising the programming steps of". According to Applicant's specification, no machine readable medium is defined. Instead a computer readable medium is defined. The specification at Paragraph 0043 of the Application Publication 2003/0106061 states, "Furthermore,

**the computer program product may also be stored at another unit and transmitted when desired to entertainment unit 101 by a network or by an external network such as the Internet. One skilled in the art would appreciate that the physical storage of the sets of instructions physically changes the medium upon which it is stored so that the medium carries computer readable information. The change may be electrical, magnetic, chemical or some other physical change".**

Therefore, since no antecedent basis has been established for the claim limitation "machine readable medium", but a "computer readable medium" has been established to encompass a carrier signal, claims 13-18 are deemed non-statutory (see MPEP 2106.01).

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3-5, 7, 11-15, 17, 21-25 and 27 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Burnhouse et al. (U.S. Patent Application Publication 2002/0056104).

Applicant's specification teaches receiving broadcast signals at step 301 in Figure 3A. Upon receiving the broadcast signals step 302 determines if the broadcast signals comprise tags. If the broadcast signals contain tags, step 304 compares the tags with a list of one or more classifications. If there is a difference between the classifications and the tags, step 306 in Figure 3B updates a list of one or more classifications to include a new classification. Although the specification of the instant application clearly provides the order these steps are performed, the claim limitations are broad and do not distinguish the order that the displaying, determining and comparing steps are performed.

Therefore the examiner has applied a broadest reasonable interpretation of the limitations presented in the claims. Burnhouse teaches the receiving step by receiving the broadcast signals that includes electronic program guide information (see Paragraph 0021), the displaying step by the EPG being displayed in Figures 9-10, the determining step by processing the broadcast signals and building a sort table (database) of category and subcategory pointers/tags (see Figure 4 and Paragraph 0036), and the comparing step by allowing a user to select the folder style guide option in Figure 8 or a category folder in Figure 9. In regards to the comparing step, the list of one or more classifications is being interpreted as the category selected by the viewer when navigating through the EPG, therefore the system must compare all of the tags (category or subcategory pointers) stored in the table of Figure 4 to the category selected by the viewer.

Referring to claim 3, Burnhouse discloses receiving broadcast signals for a plurality of television stations (see Figures 3-4 and Paragraph 0024).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (see Figures 9-10 and Paragraph 0057), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (see Paragraph 0062).

Burnhouse discloses determining whether said broadcast signals include tags for associating each of said plurality of television stations with one or more classifications (see Paragraph 0035 and Figure 3 for each program signal carrying different types of tags for category, subcategory, etc.).

Burnhouse discloses that if the broadcast signals include said tags then comparing said tags with a list of one or more classifications associated with said plurality of television stations (see Paragraphs 0036 and 0040). The examiner notes that at Paragraph 0036, Burnhouse teaches that a table of points 401 to the EPG is stored in the memory. Note that in Figure 3 clearly teaches that the EPG contains category and subcategories. Paragraph 0036 further teaches that table 401 is used for changing the order of the programs according to the information to be presented in the guide to user (e.g. selecting a category or subcategory to configured a specified display of programs as shown in Figure 5) as well as that table 401 includes an entry for the address pointer to the corresponding program data (which as shown in Figure 5 includes the category and subcategory data). Therefore using table 401, when a user selects a category and subcategory to generate a program guide corresponding to a

category and/or subcategory, the table is accessed and the selected category and subcategory (one or more classifications associated with said plurality of television stations) are compared to the program data (incoming tags).

Referring to claim 4, Burnhouse discloses that folders are displayed according to a base set if there are no differences between said list of one or more classifications associated with said plurality of television stations and said tags (see Paragraph 0041 and Figure 5 for creating a folder EPG based on the category tag of the program (Figure 3) and that if a first and second program has a category sports, both the first and second program will be categorized in the sports folder, therefore the base set corresponds to only the category).

Referring to claim 5, Burnhouse discloses that if there are differences between said list of one or more classifications associated with said plurality of television stations and said tags (i.e. a new category has been determined) then the list of one or more classifications associated with said plurality of television stations is updated and a new base set is created (see Paragraph 0036 and note that if a category tag is found in a program that has not been set as a category that according to the process described in Paragraph 0036 and Figure 4, a new category/base set will be created and associated indications to television program will be stored therein). Therefore, when table 401 is created, a base set is created for every category so that when a user selects a specific category, only programs corresponding to that base set will be displayed.

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on said display according to said new base set (see Figures 9-10).

Referring to claim 7, Burnhouse discloses receiving broadcast signals for a plurality of television stations (see Figures 3-4 and Paragraph 0024).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (see Figures 9-10 and Paragraph 0057), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (see Paragraphs 0061-0062).

Burnhouse also discloses receiving input to add or delete a particular folder and adding or deleting said particular folder (see Paragraph 0053).

Referring to claims 13-15, see the rejection of claims 3-5, respectively.

Referring to claims 23-25, see the rejection of claims 3-5, respectively.

Referring to claims 17 and 27, see the rejection of claim 7.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnhouse et al. (U.S. Patent Application Publication 2002/0056104) in view of Ismail et al. (U.S. Patent No. 7,146,627).

Referring to claim 6, Burnhouse discloses all of the limitations in claim 2, as well as said one or more folders associated with said one or more classifications for said plurality of television stations on said display (see Figures 9-10) and that the EPG data is maintained in memory (see Paragraph 0032), but is silent as to displaying folders according to a base set if said broadcast signals do not include tags. The examiner continues to stress that Burnhouse only teaches receiving the EPG data once, therefore since no teaching of EPG updating exists in Burnhouse, the examiner relies on a teaching of such a update in order for the combination of Burnhouse and the teaching reference to provide a system which displays various types of category EPGs, the first being a base set of EPG data based on tags received in the broadcast signals, and a second based on an updated new base set of EPG data, which is organized and displayed in the folders EPG of Burnhouse.

After further review of Applicant's Arguments and the specification of the instant application (specifically Figures 3A and 3B), when a broadcast signal is received with a tag, the tag is compared to the pre-existing database of classifications (EPG data previously received) and if a difference is found between the received tag and the pre-existing classifications data, then a new classification and folder is created and

displayed to the user, however, if a tag (for example updated EPG data) has not been received, the default menu is displayed to a user. The examiner notes that although Burnhouse teaches receiving the EPG data with the category/subcategory tags used for displaying the folders, Burnhouse is silent about updating the EPG data every day, week or hour, therefore not teaching that a base set is displayed between the time the EPG data is initially received and then updated later in time.

Therefore, Ismail is used to teach displaying EPG data according to a base set if said broadcast signals do not include said tags, by teaching that EPG data is being periodically updated (see Column 27, Lines 41-59, Column 31, Lines 5-37 and Column 33, Line 65 though Column 34, Line 32), therefore when a user views an EPG before it is updated, tags have not been received and a base set is displayed if the EPG has not been updated with new data. Additionally a new base set will inherently be displayed when the EPG data has been updated. The examiner notes that this is consistent with Figures 3A and 3B of the instant application discussed above.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG reception system, as taught by Burnhouse, using the updating EPG data reception system, as taught by Ismail, for the purpose of allowing the viewer's set top box to store one or two weeks of EPG data for selective access by the viewer via a menu of the set top box (see Column 27, Lines 41-45 of Ismail), which additionally allows acceptable memory costs during manufacture of the set top box (see Column 27, Lines 58-59 of Ismail), by only transmitting a limited amount of EPG data at a time.

Referring to claims 16 and 26, see the rejection of claim 6.

Claims 8, 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnhouse et al. (U.S. Patent Application Publication 2002/0056104) in view of Rashkovskiy (U.S. Patent Application Publication 2004/0034867).

Referring to claim 8, Burnhouse discloses receiving broadcast signals for a plurality of television stations (see Figures 3-4 and Paragraph 0024).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (see Figures 9-10 and Paragraph 0057), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (see Paragraph 0062).

And although Burnhouse discloses that a favorite channel option exists in the program guide of Burnhouse (see Paragraph 0056), Burnhouse is silent about receiving input to add or delete an indication associated with a particular television station (a program in the category list) associated with a particular folder and adding or deleting said indication associated with said particular television station associated with said particular folder.

Rashkovskiy discloses a specific favorite program selection option in Paragraph 0020, which allows the viewer to add a favorite program to his/her list of favorite program that are displayed in the folders menu.

At the time the invention was made, it would have been obvious to modify the favorite program option, as taught by Burnhouse, to include the favorite program option, as taught by Rashkovskiy, for the purpose of better organizing the available content for easier selection and viewing (see Paragraph 0006 of Rashkovskiy).

Referring to claim 18, see the rejection of claims 8, respectively.

Referring to claim 28, see the rejection of claims 8, respectively.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce  
Primary Examiner  
Art Unit 2623

January 30, 2008

JASON SALCE  
PRIMARY PATENT EXAMINER

